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EXAMINER

THOMASSON, MEAGAN J

ART UNIT PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/688,509

Applicant(s)

BYRNE, CHRISTOPHER
RUSSELL

Examiner

Meagan Thomasson

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 1-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-72 is/are rejected.
- 7) ☒ Claim(s) 67 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 40-65 is withdrawn in view of the written description requirements under 35 U.S.C. 112, first paragraph. Rejections on these grounds are detailed in the action below.

Response to Amendment

The examiner acknowledges the amendments made to claims 26 and 69. Claims 1-25 and 38 have been cancelled.

Claim Objections

Claim 67 is objected to because of the following informalities:

In line 18, applicant should change "ground" to "group". Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 40-65 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, independent claims 40,48,54,59,63,64, and 65, copied from U.S. Patent No. 6,692,354, contain a limitation drawn the following:

“a secondary game award amount being equal to the product of the primary game award amount multiplied by the multiplier value”.

Throughout the specification, the applicant refers to their invention as containing two separate awards, namely a main jackpot and a collateral jackpot. Upon the occurrence of a winning outcome in the primary game, the player in possession of a winning outcome is awarded primary game award amount equal to that of the main jackpot. Upon the occurrence of a winning outcome being obtained by a single player in the primary game, all players participating the secondary, or collateral, game are awarded a secondary award amount equal to that of the number of shares purchased by a player multiplied by the value of a single share. While the number of shares purchased by a player acts as a multiplier, nowhere in the applicant's specification does it suggest that a player may be awarded a secondary award amount equal to the primary award amount, or main jackpot value, multiplied by this multiplier (Example of Machine Play, beginning on P. 33 of specification). Further descriptions of the secondary award can be found in the following passages:

- Page 2, 3rd para, discusses, "...the holders of the entries in the collateral game, will share a jackpot based on the payments made to the collateral game." Not based on the product of the primary game award (main jackpot amount) and a multiplier.

- Page 2, last para, similar to above.
- Page 3, 2nd para, states, "...winning result of all of the players of the collateral game....are **paid a share** of the available amount for that parameter of the result type which **depends on the amount invested by the individual player and the total amount invested by the players in the collateral game...**" Not based on the product of the primary game award (main jackpot amount) and a multiplier.
- Page 4, 1st para: "...the jackpot pool is **independent and self-funding...**" Not based on the product of the primary game award (main jackpot amount) and a multiplier.
- Page 6, 1st para starting, "Thus for 100 Super Keno entrants..." states, "...one person wins the standard jackpot (main jackpot amount-\$600K) ...at same time 100 people win \$4K each (collateral) based on the "share" formula on page 6..." Not based on the product of the primary game award (main jackpot amount) and a multiplier. So, no \$600K multiplied by some multiplier is given to any of the players.

- Page 7 - top of page 8, states: "....Super Keno can be operated in **independent mode** where a **standard keno entry may not be purchased**." There is no "primary game winnings (main jackpot amount)" to even multiply in this particular embodiment.

Thus, all of the limitations of claims 40-65, as copied from U.S. Patent No. 6,692,354, are not described in the applicant's specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-39 are rejected under 35 U.S.C. 103(a) as being obvious over Jones et al. (U.S. 4,861,041) in view of Jones et al. (U.S. 5,377,973).

Jones et al. '041 discloses a method and apparatus for including a progressive jackpot component in a live casino table game. In addition to playing a live casino table game, each player makes an additional wager at the beginning of each hand that makes that player eligible to win all or part of a jackpot. If during the play of the hand a player is dealt a predetermined arrangement of cards, the player wins a preselected percentage of the jackpot amount. The jackpot is progressive in that unwon amounts of the jackpot carry over to the next hand. Apparatus is provided to receive each gaming

token wagered for the jackpot component, to increment the jackpot meter which displays the jackpot amount, to decrement the jackpot meter whenever a winning hand is paid and to reset the apparatus for the next hand. Jones et al. '041 additionally discloses:

Regarding Claim 26:

- forming a group of at least some of the entrants in the individual participation game who have made a wager on a first game and a wager on the outcome of the second group participation game (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19);
- determining whether the entire group is a winner of the group game (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19); and,
- indicating the outcome of the group game at the conclusion thereof (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).
- Wherein the individual participation game is played on an electronic gaming machine; column 1, lines 17-21 of Jones '041 discloses that "it has become common practice in gaming establishments to provide a progressive jackpot component in connection with electronic or mechanical gaming devices, such

as slot machines, video poker machines or keno machines". From this, it can be shown that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method for playing the progressive gambling game disclosed in the instant application into an electronic gaming machine. Further, Jones et al. '973 discloses a plurality of the gaming machines being linked to a central processing unit which performs the step of determining whether the entire group is a winner of the group game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20). It would have been obvious to one of ordinary skill in the art to combine the teachings of Jones et al. (US 4,861,401) and Jones et al. (US 5,377,973) due to their analogous inventions, namely methods for playing progressive jackpot gaming.

Regarding Claim 27:

- wherein the group forming step includes forming the group of all entrants in the first wagering game who have made a separate wager on the outcome of the second group game (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 28:

- wherein the step of determining whether the group a winner includes randomly generating indicia in a display and comparing at least a portion of the display with predetermined indicia that represents a winning combination

(Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 29:

- wherein the indicia in the display is in the form of an array (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 30:

- wherein the step of indicating the outcome of the game includes displaying each randomly generated indicium one-by-one in the array so that the group can anticipate the chances of winning (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 31:

- wherein the step of determining whether the group is a winner includes comparing at least a portion of the indicia with a plurality of different predetermined indicia that each represent a winning combination (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 32:

- wherein the step of determining whether the group is a winner includes randomly generating indicia in an array and comparing at least a portion of the array with a predetermined combination of indicia that represents a winning combination (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 33:

- wherein the step of determining whether the group is a winner includes comparing at least a portion of the array with a plurality of different predetermined combinations of indicia that each represent a winning combination (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 34:

- wherein each entrant is able to make a wager on the individual game that differs in size from the wagers being made by the other entrants, and the size of the winnings awarded to each entrant corresponds to the size of the entrant's wager, and wherein each entrant makes the same wager on the second group game and is awarded the same winning prize amount (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 35:

- wherein each gaming machine performs the step of indicating the outcome of the group game at the conclusion thereof (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 36:

- wherein the individual participation game is keno (Column 1, lines 17-33).

Regarding Claim 37:

- wherein the individual participation game is a game of chance (Abstract, Figures 1-3, Column 1, line 64-Column 2, line 27, Column 2, line 45-Column 3, line 24, Column 3, line 54-Column 4, line 64, Column 5, line 65-Column 6, line 6, and Claims 1-19).

Regarding Claim 39:

- wherein the individual participation game is a lottery (Column 1, lines 17-33).

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 66-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones et al. (U.S. 5,377,973).

Jones et al. discloses methods and apparatus for allowing gamblers playing either live casino table game or electronic video device versions of card games allow

Art Unit: 3714

the players the options of making wagers in both the underlying card game and a progressive jackpot component, making wagers only in the underlying card game, and making a wager only in the progressive jackpot component. In the live table version, a player may activate an indicator light or place a special token in the bet box for the underlying game to signal that the player opts to participate only in the progressive jackpot component. In the electronic video device version, a player activates one or more push buttons to select one of the three operational modes. The underlying card game preferably comprises Twenty-One or a five-card stud poker variant known as Caribbean Stud. TM. poker, but may also comprise other card games such as five card stud, seven card stud, Jacks or better, etc. Jones et al. additionally discloses:

Regarding Claim 66:

- at least one display device capable of displaying images associated with the primary game and the secondary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20); and,
- a central processing unit operatively coupled to the display device, the central processing unit being programmed determine a primary game outcome for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- the central processing unit being programmed to cause the display device to display images corresponding to the primary game outcome for the primary

- game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- the central processing unit being programmed to compare the primary game outcome for the primary game to the entry of each entrant for the primary game, and to determine whether each entrant has a winning entry for the primary game based on the comparison of the primary game outcome to the entry of each entrant (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
 - the central processing unit being programmed to determine a primary game award amount for each entrant determined by the central processing unit to have a winning entry for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
 - the central processing unit being programmed to determine a secondary game outcome for the secondary game associated with the primary game, and an associated value for each winning share of a jackpot associated with the secondary game based upon the secondary game outcome (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
 - the central processing unit being programmed to cause the display device to display images corresponding to the associated value for each winning share of the jackpot associated with the secondary game (Abstract, Figure 3,

Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20); and,

- the central processing unit being programmed to determine a secondary game award amount for each entrant that placed a secondary wager on the secondary game associated with the primary game and that is determined by the central processing unit to have a winning entry for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20).

Regarding Claim 67:

- receiving entries from a plurality of entrants wherein each of the entrants has made a first wager on an outcome of the individual participation wagering game and a second wager to participate in the group participation wagering game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining whether a winning outcome is achieved for each entrant in the individual participation wagering game wherein if a winning outcome is achieved by an entrant in the individual participation wagering game, an individual prize amount is determined for the entrant (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- allocating a value to the group participation wagering game, the value being applied for each entrant achieving a winning outcome (Abstract, Figure 3,

Art Unit: 3714

Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20); and,

- determining a total prize amount for each entrant achieving a winning outcome in the group participation game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20).

Regarding Claim 68:

- wherein the value allocated to the group participation wagering game is a share value for one share of a jackpot calculated for the winning outcome in the group participation wagering game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20).

Regarding Claim 69:

- wherein said step of determining a total prize amount for each entrant achieving a winning outcome in the ground participation game includes multiplying the value allocated value to the group participation wagering game by a prize amount (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20).

Regarding Claim 70:

- receiving an entry and a primary wager for the primary game from a plurality of entrants, each entry made by one of the plurality of entrants for the primary game comprising a first subset of primary game indicia selected from a set of

primary game indicia (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);

- receiving a secondary wager for the secondary game associated with the primary game from at least one of the entrants (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining a primary game outcome for the primary game, the primary game outcome for the primary game comprising a second subset of primary game indicia selected from the set of primary game indicia (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- comparing the second subset of primary game indicia for the primary game to the first subset for the primary game for each entrant (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining a primary game award amount for each entrant for the primary game based on a level of correspondence between the first subset of primary game indicia for the entrant and the second subset of primary game indicia for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);

Art Unit: 3714

- determining a secondary game outcome for the secondary game associated with the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20); and,
- determining a secondary game award amount for each of the plurality of entrants that placed a secondary wager on the secondary game associated with the primary game and that of primary game indicia is determined to have a winning entry for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20).

Regarding Claim 71:

- receiving an entry and a primary wager for the primary game from the plurality of entrants (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- receiving a secondary wager for the secondary game associated with the primary game from a subset of the entrants (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining a primary game outcome for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- comparing the primary game outcome for the primary game to the entry of each entrant for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);

- determining whether each entrant has a winning entry for the primary game based on the comparison of the primary game outcome to the entry of each entrant (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining a primary game award amount for each entrant determined to have a winning entry for the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining a secondary game outcome for the secondary game associated with the primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20); and,
- determining a secondary game award amount for each of the plurality of entrants that placed a secondary wager on the secondary game associated with the primary game and that is determined to have a winning entry for the associated primary game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20).

Regarding Claim 72:

- receiving an entry and a first wager for the individual participation Keno game from a plurality of entrants (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- receiving a second wager for the group game associated with the individual participation Keno game from at least one of the entrants (Abstract, Figure 3,

Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);

- determining an individual participation Keno game outcome for the individual participation Keno game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- comparing the individual participation Keno game outcome to the entry for the individual participation Keno game for each entrant (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining an individual participation Keno game award amount for each entrant for the individual participation Keno game based on a level of correspondence between the entry for the entrant and the individual participation Keno game outcome (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20);
- determining a group game outcome for the group game associated with the individual participation Keno game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20); and,
- determining a group game award amount for each of the plurality of entrants that placed a second wager on the group game associated with the individual participation Keno game (Abstract, Figure 3, Column 2, line 41-Column 3, line 32, Column 9, line 41-Column 12, line 31, and Claims 1-20).

Response to Arguments

Applicant's arguments with respect to claim 26 have been considered but are moot in view of the new ground(s) of rejection. Specifically, amending claim 26 to incorporate the limitations of claim 38 into claim 26 renders the 35 U.S.C. 102 rejection of claim 26 improper. However, the new grounds of rejection under 35 U.S.C. 103 are necessitated by the amendment and render moot the applicant's argument that the limitations of claims 26 are not met.

Applicant's argument that the Australian priority claim of August 27, 1993 of the instant application antedates the actual filing date of Jones et al. (US 5,377,973), which is February 14, 1994, and that the limitations of claims 66-72 cannot be found in the Jones et al. patents, has been considered but is not persuasive. Jones et al. (US Patent No. 5,078,405) is a parent application of Jones et al. (US Patent No. 5,377,973), and discloses a similar apparatus and method for progressive jackpot gaming.

In response to applicant's request for an interference to be declared between the claims recited in the instant application and the claims recited in Tracy et al. (US 6,692,354), all claims in the instant application must be in condition for allowance before an interference may be filed. The examiner maintains the rejections made in the previous office action, rendering claims 26-39 and 66-72 not patentable over the prior art, and thus not in condition for allowance. Further, it has been determined that claims 40-65, copied from U.S. Patent No. 6,692,354, are not described in the applicant's specification.

Conclusion

Art Unit: 3714

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson
January 10, 2007

 1/17/07

ROBERT OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700